THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9195 of 1995

Dated:19.1.2007

Between

1.V.Chinnayya Naidu and others.

.....Petitioners

and

1.The Commissioner of Cooperation & Registrar of Cooperative Societies, AP Hyderabad and others.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.9195 of 1995

ORDER:

This writ petition is filed seeking a Mandamus to declare the order of the 1st respondent *vide* Memo in Rc.No.9870/95/PACS/K1 dated 15.2.1995 and the consequential order passed by the 4th respondent dated 28.2.1995, as arbitrary, illegal and to direct the respondents not to recover the enhanced DA of 15% already received by the petitioners and further to direct the respondents to continue to pay the salaries including the DA at the rate of 50% and arrears of salary including D.A.

It appears that by resolution dated 19.1.1995, the previous management enhanced the DA from 35% to 50% and the petitioners received the arrears of D.A on 1.10.1994. Subsequently, the 1st respondent issued a circular dated 15.2.1995

directing the Special Officer to rectify the irregular decisions, if any, taken by the previous managing committee either by recording another resolution or by issuing an administrative order afresh reversing such decision taken by the previous elected management, which is contrary and detrimental to the interest of the PACS or other primary level societies. In pursuance of the same, the 4th respondent issued proceedings dated 28.2.1995 canceling the enhancement of DA from 35% to 50% and decided to deduct the difference of DA ie., 15% paid to the employees.

The grievance of the petitioners is that the previous management enhanced DA from 35% to 50% and the same was cancelled by the present management illegally. Apart from that, the impugned proceedings contemplate recovery of difference of DA 15% paid to the employees.

I am of the opinion that it is not a case of obtaining DA by misrepresentation or mis-interpretation of any resolution passed by the previous management or the present management.

The previous management by resolution dated 19.1.1995 enhanced the DA from 35% to 50%. May be, if the present management is not intending to extend the said benefit, they may withdraw the same as per law. But it is not open for them to recover 15% of the arrears paid as per the resolution passed by the previous management.

Under those circumstances, I deem it appropriate to declare that the respondents are not entitled to recover 15% arrears of DA as per impugned order.

Writ petition is allowed to the extent indicated above. No costs.

_____

19.1.2007

rkk